

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Yitzchok Majerowitz,

Plaintiff,

v.

Malen & Associates, P.C.

Defendant(s).
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Plaintiff Yitzchok Majerowitz ("Plaintiff" or "Majerowitz"), by and through its attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for its Complaint against the Defendant Malen & Associates, P.C. ("Defendant" or "MALEN"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of Sec. 1692 et. Seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of NY, County of Kings, residing at 55 Franklin Avenue, #4A, Brooklyn, NY 11205.

CV 12-4587
Civil Action No.: 4587

GERSHON, J.

**COMPLAINT AND DEMAND
FOR TRIAL BY JURY**

LEVY, M.J.

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U.S. DISTRICT COURT
EASTERN DISTRICT

3. Defendant is a collection firm with a principal place of business at 123 Frost Street, Westbury, NY 11590, and, upon information and belief, is licensed to do business in the State of NY.

4. MALEN is a “debt collector” as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC Sec. 1331, as well as 15 USC Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendant jurisdiction over the State law claims in this action pursuant to 28 U.S.C. Sec. 1367 (a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391 (b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).

9. In or around November, 2011, Defendant placed a telephone call to Plaintiff, and left a message for Plaintiff on Plaintiff’s answering machine. (See transcript, attached hereto as “Exhibit A.”)

10. Said call contained personal and confidential information.

11. Said message was a message to collect a debt, and it was left on an answering machine which was played and heard by one or more third parties who each had the right and opportunity to play same.
12. Said message was heard, amongst others, by Plaintiff's son, Shlumie Majerowitz.
13. The actions of Defendant led to embarrassment, harassment, and disclosure of confidential information to a third party.
14. Said actions by Defendant violated 15 U.S.C. Sec. 1692b(2) and 15 U.S.C. Sec. 1692c(b) which prohibit communicating with anyone except consumer and communicating to a third party, stating that a consumer owes a debt.
15. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.
17. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. Sec. 1692b(2) and 15 U.S.C. Sec. 1692c(b).
18. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

19. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Yitzchok Majerowitz demands judgment from the Defendant Malen & Associates, P.C. as follows:

- A. For actual damages provided and pursuant to 15 USC Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC Sec. 1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 USC Sec. 1692k(a)(3);
- D. A declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
September 11, 2012

Respectfully submitted,

By: 

Aryeh L. Pomerantz, Esq.

FREDRICK SCHULMAN & ASSOCIATES

Attorneys at Law

Attorney for Plaintiff

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Attorneys for Plaintiff

Exhibit A - Transcripts

This is a message for Yitzckok Majerwits. If this is not Yitzckok Majerwits, please hang up or disconnect. If this is Yitzckok, please continue to listen to this message. There will now be a three second pause in this message. By continuing to listen to this message, you acknowledge that you are Yitzckok Majerwits and you should not listen to this message so that other people can hear it as it contains personal and private information. This is Jenny from Mel and Associates. This communication is from a debt collector. Please contact me at 516-479-5906. Thank you.